



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

and

THE HONOURABLE MR.JUSTICE **P.N.PRAKASH**

H.C.P (MD) No.250 of 2017

Nallammal

.. Petitioner

Vs.

1.The Secretary to Government

State of Tamil Nadu

Home, Prohibition & Excise Department,

Fort St. George, Chennai-600 009.

2.The Commissioner of Police,

Office of the Commissioner of Police

Madurai City, Madurai.

3.The Superintendent of Prison,

Madurai Central Prison,

Madurai District

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the records connected with the detention order of the respondent No.2 in No.69/BCDFGISSSV/2017 dated 05.10.2016 and quash the same and direct the respondents to produce the detenu by name Vilvadurai, son of Muniasamy, aged about 29 years detained in Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.C.Ramesh

Additional Public Prosecutor.

O R D E R

[Order of the Court was made by **S.NAGAMUTHU, J**]

The petitioner is the mother of the detenu, namely, Vilvadurai, son of Muniasamy, aged 29 years. The detenu has been detained under the Tamil Nadu Act 14 of 1982 as per the order of the 2nd respondent in his proceedings in No.69/BCDFGISSSV/2017 dated 05.10.2016, branding him as "Goonda" under Section 2(f) of the Tamil Nadu Act 14 of 1982. Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.



2. We have heard the learned counsel appearing for the petitioner and learned Additional Public Prosecutor appearing for the State. We have also perused the records carefully.

3. Though several grounds have been raised in this petition, the learned counsel for the petitioner would focus his argument mainly on the ground that the satisfaction arrived at by the Detaining Authority that there was a real possibility of the detenu coming out on bail is totally baseless. He would submit that earlier bail application was dismissed and when there was no bail application at all filed by the detenu, question of the detenu coming out on bail does not arise. Thus, there was no real possibility at all for the detenu to come out on bail, the learned counsel contended.

4. The learned Additional Public Prosecutor would, however, oppose this petition. According to him, the detenu is involved in a case for offence under Section 307 IPC. He would further submit that there was every possibility for the detenu to move application for bail either before the Court of Sessions or before the High Court, in which, there was every possibility for him to come out on bail, because in similar cases, similarly placed persons were granted bail either by the Sessions Court or by the High Court.

5. We have considered the above submissions.

6. If an application for bail is moved, before any competent Court by the detenu, then only, question of coming out on bail would arise. In such a situation, the Detaining Authority may be satisfied that there is a real possibility of the detenu coming out on bail based on the fact that in similar cases, similarly placed persons have been granted bail. But, in this case, there was no such bail application filed by the detenu. There was no attempt also made by any of his relatives to move any application for bail. When that be so, absolutely, there was no real possibility of the detenu coming out on bail. Accordingly, the satisfaction arrived by the detaining authority is totally baseless. In such view of the matter, the detention order is liable to be set aside.

8. In the result, the Habeas Corpus Petition is allowed and the impugned order of Detention in No.69/BCDFGISSSV/2017 dated 05.10.2016 passed by the 2nd respondent, is quashed. The Detenu, Vilvadurai, son of Muniasamy, is directed to be released forthwith, unless his presence is required in connection with any other case.

Sd/-

Assistant Registrar(RTI)

/True copy/



To

1. The Secretary to Government
State of Tamil Nadu
Home, Prohibition & Excise Department,
Fort St. George,
Chennai-600 009.
2. The Commissioner of Police,
Office of the Commissioner of Police
Madurai City, Madurai.
3. The Superintendent of Prison,
Madurai Central Prison,
Madurai District
4. The Joint Secretary to Government ,
Public (Law & order),
Fort St. George, Chennai-9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

SDS/RSK/10.05.2017/3P/6C

ORDER MADE IN
H.C.P (MD) No.250 of 2017
26.04.2017